

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LOUIS ANDREW DIDONNA,

Plaintiff,

v.

HAROLD L. SMITH, *et al.*,

Defendants.

No. 22-CV-6107 (KMK)

ORDER

KENNETH M. KARAS, United States District Judge:

Plaintiff commenced this Action on July 18, 2022, pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. (*See* Compl. (Dkt. No. 2).) After Plaintiff filed an Amended Complaint, (Dkt. No. 7), the Court ordered service, (*see* Dkt. No. 11). Because Plaintiff sued several John and Jane Doe Defendants, the Court directed him to file a second amended complaint within 30 days of receiving information identifying the Doe Defendants. (*See id.* at 5–6.) On October 4, 2024, the Court again ordered Plaintiff to file a second amended complaint by November 4, 2024. (Dkt. No. 45.) Plaintiff did not timely comply with this order. (*See generally* Dkt.) On December 5, 2024, the Court ordered Plaintiff to show cause by no later than January 3, 2025, why this Action should not be dismissed for failure to prosecute. (Dkt. No. 46.) By letter dated December 7, 2024, Plaintiff requested an extension. (Dkt. No. 47.) On January 17, 2025, Plaintiff filed three letters, identifying Doe Defendants and repeating his allegations. (Dkt. Nos. 48, 49, 49-1, 50.)

The Court previously warned Plaintiff that “[t]he second amended complaint *will replace, not supplement*, the original and amended complaints.” (Dkt. No. 45 at 2 (emphasis added).) Plaintiff’s January 17, 2025, letters are styled as a second amended complaint, but do not include

all defendants. (*See* Dkt. Nos. 48–50.) Given the solicitude typically due to pro se litigants, the Court directs Plaintiff to use the Southern District of New York Pro Se Complaint form to file a third amended complaint that includes *all factual allegations, defendants, and claims*.

Accordingly, it is hereby:

ORDERED that the Plaintiff shall file, by no later than February 28, 2025, a third amended complaint that includes all factual allegations, defendants, and claims that Plaintiff wishes to assert. The third amended complaint will replace, not supplement, the previous complaints. If Plaintiff fails to meet this deadline, this Action may be dismissed for failure to prosecute. *See Murphy v. L.A. Spaulding et al.*, No. 20-CV-9013, 2020 WL 1063138 (S.D.N.Y. Mar. 30, 2022) (dismissing case brought by pro se plaintiff for failure to prosecute); *Armstrong v. Guiccione*, 470 F.3d 89, 103 n.1 (2d Cir. 2006) (noting that “a federal district court has the inherent power to dismiss a case *sua sponte* for failure to prosecute” (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–32 (1962))). The Clerk of Court is respectfully directed to mail a copy of this Order and a copy of the Southern District of New York Pro Se Complaint form to Plaintiff.

SO ORDERED.

Dated: January 23, 2025
White Plains, New York

A handwritten signature in black ink, appearing to read 'K. Karas', written over a horizontal line.

KENNETH M. KARAS
United States District Judge